

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

FILED
IN CLERK'S OFFICE

UNITED STATES OF AMERICA)

vs.)

MICHAEL CROOKER)

) No. ~~04-656-MAP~~

2005 JUL 12 P 3: 22

U.S. DISTRICT COURT
DISTRICT OF MASS.

**DEFENDANT'S MOTION FOR PERMISSION
TO FILE ONE DAY LATE AND FOR LEAVE TO FILE
AFFIDAVIT IN SUPPORT OF MOTION LATE**

Now comes the defendant, Michael Crooker, by and through counsel and moves this Honorable Court to file his motion to suppress one day late and for leave to file affidavit in support thereof on or before July 20, 2005, and as his basis, therefore, directs the court's attention to the attached affidavit of counsel.

Counsel for defendant has conferred with Assistant United States Attorney, Ariane Vuono, who expresses no opposition to the late filing provided the government is given an equal opportunity to file its responsive pleading.

THE DEFENDANT

BY: 

Vincent A. Bongiorno, Esq.
95 State Street, Suite 309
Springfield, MA. 01103
(413) 732-0222
BBO #049040

CERTIFICATE OF SERVICE

I, Vincent A. Bongiorno, Esq., do hereby certify that I have served a copy of the foregoing to the Assistant United States Attorney, Ariane Vuono, Esq., United States District Court, 1550 Main Street, Springfield, MA. 01103 this// Day of July, 2005.


Vincent A. Bongiorno

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)
)
vs.) No. 04-656-MAP
)
MICHAEL CROOKER)

AFFIDAVIT

Now comes Vincent A. Bongiorno, being duly sworn and hereby deposes and states as follows:


I am the attorney of record for Michael Crooker. In preparation to file this motion to suppress I attempted to contact Mr. Crooker at the Wyatt Facility in Central Falls, Rhode Island. I called the facility before leaving to visit him and was informed Mr. Crooker had been transferred, but was not informed where. I thereafter contacted the United States Marshall's service and was told he had been transferred to MCI Walpole, a State facility and that Mr. Crooker was not provided with the discovery materials I had sent him in order to assist in preparing the affidavit in support of this motion. I was unable to get to visit Mr. Crooker at Walpole before he was again transferred out of the facility to another facility. I again contacted the United States Marshall's service in an effort to determine his whereabouts. Daniel Spellacy advised me that unbeknownst to the United States Marshall's Service, Crooker had been transferred to the Essex County House of Correction. During the period of the transfer Mr. Spellacy attempted to assist me by tracing the whereabouts of Mr. Crooker's legal materials in order to prepare this motion.

I called the Essex County Facility and was provided the name of Mr. Crooker's caseworker in order to have him call my office to expedite this process. I left recorded messages without result. I contacted the United States Marshall's Service during the preceding week in order to gain some assistance in getting Mr. Crooker access to telephone contact with me in order to expedite the filing of this motion. I was told that Mr. Crooker would be calling my office on Friday, July 8, 2005. I did not receive a call. After speaking with Mr. Spellacy I called the institution and left a message with the Captain who had assured Mr. Spellacy Mr. Crooker would

call me requesting to have Mr. Crooker call my office again without result. I mailed Mr. Crooker a proposed affidavit I had prepared which I am certain will need to be edited by him. I am unsure of whether he had received it initially because he was not at the institution as I later learned. The delay occasioned by Mr. Crooker removal through three separate institutions in as many weeks and the lack of his legal materials and my inability to communicate with him by letter or telephone calls, has resulted in a delay over which I have had no control. The Essex County House of Correction is a two hour drive from my office and my present Court schedule has prevented me from making a personal visit. Each time I had set aside the time to see Mr. Crooker during the preceding month, he has not been at the institution where I believed him to be when I called and I was unable to locate him for several days thereafter.

I have filed this motion to suppress together with accompanying memorandum of law. I have provided the Government with a draft affidavit for Mr. Crooker which I expect will be edited by my client and which I expect to be able to file in completed fashion before July 20, 2005.

Signed under the pains and penalties of perjury this 12th Day of July, 2005.



Vincent A. Bongiorno